

MT LEGISLATIVE HISTORY

Chapter 560 1991

Bill H 513 S _____

Original bill & hist. ☒ C

H. Committee on Taxation

S. Committee on Taxation

Hearing Date(s) Feb 12 ☒ C

Hearing Date(s) Mar 20 ☒ C

_____ ☐ C

Mar 22 ☒ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

Date Out Feb 12 ☒ C

Mar 22 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

1/31 REFERRED TO TAXATION
2/01 FIRST READING
2/12 HEARING
2/12 TABLED IN COMMITTEE

HB 511 INTRODUCED BY R. JOHNSON, ET AL.
PROVIDING STATUTORY APPROPRIATION OF
DRUG-RELATED PROPERTY FORFEITURES
BY REQUEST OF DEPARTMENT OF JUSTICE

1/31 INTRODUCED
1/31 REFERRED TO APPROPRIATIONS
2/01 FIRST READING
3/07 HEARING
3/25 COMMITTEE REPORT—BILL PASSED
3/27 2ND READING PASSED
3/23 3RD READING PASSED

85 6
90 6

3/23 TRANSMITTED TO SENATE
FIRST READING
3/28 REFERRED TO FINANCE & CLAIMS
4/02 HEARING
4/04 COMMITTEE REPORT—BILL CONCURRED AS AMENDED
4/08 2ND READING CONCURRED
4/09 3RD READING CONCURRED

49 0
45 0

4/11 RETURNED TO HOUSE WITH AMENDMENTS
2ND READING AMENDMENTS NOT CONCURRED
4/13 CONFERENCE COMMITTEE APPOINTED
4/17 CONFERENCE COMMITTEE REPORT NO. 1
4/18 2ND READING CONFERENCE COMMITTEE
REPORT NO. 1 ADOPTED
4/19 3RD READING CONFERENCE COMMITTEE
REPORT NO. 1 ADOPTED

93 4
95 1
92 6

4/16 SENATE
CONFERENCE COMMITTEE APPOINTED
4/17 CONFERENCE COMMITTEE REPORT NO. 1
4/18 2ND READING CONFERENCE COMMITTEE
REPORT NO. 1 ADOPTED
4/19 3RD READING CONFERENCE COMMITTEE
REPORT NO. 1 ADOPTED

47 0
49 0

4/24 SIGNED BY SPEAKER
4/24 SIGNED BY PRESIDENT
4/24 TRANSMITTED TO GOVERNOR
4/27 SIGNED BY GOVERNOR
CHAPTER NUMBER 630

EFFECTIVE DATE: 7/01/91

HB 512 INTRODUCED BY SIMPKINS
BALANCED STATE BUDGET BASED UPON
PREVIOUS YEARS' STATE REVENUES

1/31 INTRODUCED
1/31 REFERRED TO APPROPRIATIONS
2/01 FIRST READING
3/11 HEARING
3/15 HEARING
3/23 TABLED IN COMMITTEE

HB 513 INTRODUCED BY SIMPKINS
REQUIRE THE BOARD OF COUNTY COMMISSIONERS
TO ORDER A REFUND OF CERTAIN TAXES

1/31 INTRODUCED
1/31 REFERRED TO TAXATION

2/01 FISCAL NOTE REQUESTED
2/01 FIRST READING
2/04 FISCAL NOTE RECEIVED
2/06 FISCAL NOTE PRINTED
2/12 HEARING
2/12 COMMITTEE REPORT—BILL PASSED AS AMENDED
2/15 2ND READING PASSED
2/18 3RD READING PASSED

92 5
96 1

2/19 TRANSMITTED TO SENATE
2/19 FIRST READING
2/19 REFERRED TO TAXATION
3/20 HEARING
3/27 COMMITTEE REPORT—BILL CONCURRED AS AMENDED
4/03 2ND READING CONCURRED AS AMENDED
4/04 3RD READING CONCURRED

50 0
50 0

4/09 RETURNED TO HOUSE WITH AMENDMENTS
2ND READING AMENDMENTS CONCURRED
4/10 3RD READING AMENDMENTS CONCURRED
4/18 SIGNED BY SPEAKER
4/19 SIGNED BY PRESIDENT
4/19 TRANSMITTED TO GOVERNOR
4/23 SIGNED BY GOVERNOR
CHAPTER NUMBER 560

84 7
95 2

EFFECTIVE DATE: 4/23/91

HB 514 INTRODUCED BY MENAHAN, ET AL.
ADJUST SALARIES OF STATE EMPLOYEES IN EACH YEAR OF BIENNIIUM

1/31 INTRODUCED
1/31 REFERRED TO STATE ADMINISTRATION
2/01 HEARING
2/01 FIRST READING
2/02 FISCAL NOTE REQUESTED
2/07 FISCAL NOTE RECEIVED
2/08 FISCAL NOTE PRINTED
3/08 COMMITTEE REPORT—BILL PASSED AS AMENDED
3/11 REREFERRED TO APPROPRIATIONS
3/21 HEARING
3/27 COMMITTEE REPORT—BILL PASSED AS AMENDED
3/27 2ND READING PASSED AS AMENDED
3/28 3RD READING PASSED

62 38
57 42

3/28 TRANSMITTED TO SENATE
3/28 FIRST READING
3/28 REFERRED TO FINANCE & CLAIMS
4/02 HEARING
4/09 COMMITTEE REPORT—BILL CONCURRED AS AMENDED
4/10 2ND READING CONCURRED AS AMENDED
4/11 TAKEN FROM 3RD READING AND
PLACED ON 2ND READING THIS DAY
4/11 2ND READING CONCURRED AS AMENDED
4/11 ON MOTION RULES SUSPENDED
TO PLACE ON 3RD READING THIS DAY
4/11 3RD READING CONCURRED

29 21
28 19
45 2
29 21

4/12 RETURNED TO HOUSE WITH AMENDMENTS
4/13 2ND READING AMENDMENTS CONCURRED
4/13 3RD READING AMENDMENTS CONCURRED
4/13 SIGNED BY SPEAKER
4/13 SIGNED BY PRESIDENT
4/13 TRANSMITTED TO GOVERNOR

55 44
59 40

4/18 RETURNED TO HOUSE WITH GOVERNOR'S AMENDMENTS
4/18 2ND READING GOVERNOR'S AMENDMENTS
NOT CONCURRED

65 34

1 HOUSE BILL NO. 513
 2 INTRODUCED BY Lumpkins
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE PROVISIONS
 5 RELATING TO REFUNDS ON TAXES, INTEREST, PENALTIES, OR COSTS
 6 ILLEGALLY COLLECTED AND ON DUPLICATE TAXES PAID; REQUIRING
 7 THE BOARD OF COUNTY COMMISSIONERS TO ORDER A REFUND ON TAXES
 8 ILLEGALLY COLLECTED OR ON DUPLICATE TAXES PAID; ALLOWING A
 9 TAXPAYER TO FILE A CLAIM FOR A REFUND ON TAXES PAID DURING
 10 THE IMMEDIATELY PRECEDING 10 YEARS; PROVIDING THAT THE
 11 REFUND MAY BE PAID IN ANNUAL INSTALLMENTS FOR A PERIOD NOT
 12 TO EXCEED 10 YEARS; AMENDING SECTION 15-16-601, MCA; AND
 13 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

14
 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16 **Section 1.** Section 15-16-601, MCA, is amended to read:

17 "15-16-601. Taxes or penalties illegally collected or
 18 duplicate taxes to be refunded. (1) (a) Any A taxpayer is
 19 entitled to a refund on:

20 (i) taxes, interest, penalties, or costs paid more than
 21 once or erroneously or illegally collected;

22 (ii) or any--amount of--tax the taxes paid for which a
 23 taxpayer-is-entitled-to a refund is allowed under 15-16-612
 24 or 15-16-613; or

25 (iii) any--part--or the portion of taxes paid which that

1 were mistakenly computed on government bonus or subsidy
 2 received by the taxpayer.

3 (b) may Subject to the provisions in subsections (4)
 4 and (5), the county treasurer shall, by order of the board
 5 of county commissioners, be-refunded-by-the-county-treasurer
 6 pay the refund to the taxpayer.

7 (2) (a) Whenever The refund applies to any payment that
 8 has been made to the state treasurer as provided in 15-1-504
 9 and--it--afterwards--appears--to--the-satisfaction-of if the
 10 board of county commissioners determines that a portion of
 11 the money so paid should be refunded as herein provided; in
 12 this section.

13 (b) the The board of county commissioners may shall
 14 order the county treasurer to refund to the taxpayer the
 15 portion of the taxes, interest, penalties, and costs so paid
 16 to the state treasurer;.

17 (c) and-upon-the-rendering-of-the--report--required--by
 18 15-1-505--the The county clerk and recorder shall, at the
 19 time for filing the report required by 15-1-505, certify to
 20 the state auditor, in such the form as the state auditor may
 21 prescribe, all the amounts so refunded. In the next
 22 settlement of the county treasurer with the state, the state
 23 auditor shall give the county treasurer credit for the
 24 state's portion of the amounts so refunded.

25 (b)(3) When any a part of the taxes, interest,

penalties, or costs ~~hereinbefore~~ referred to in this section were levied in behalf of any a school district or municipal or other public corporation and collected by the county treasurer, the same may taxes must be refunded upon the order of the board of county commissioners.

~~f(c)(4)~~ (a) No An order for the refund of any taxes, interest, penalties, or costs under this section ~~shall~~ may ~~not~~ be made except upon a claim therefor, ~~verified~~ filed by the person taxpayer who has paid the taxes, interest, penalties, or costs or his guardian or, in case of his death, by his executor or administrator.

(b) which A taxpayer may file a claim must--be--filed within for taxes, interest, penalties, or costs paid during the immediately preceding 10 years after the date when the second half of such the taxes would have become delinquent if the same taxes had not been paid.

(c) Except as provided in subsection (5), the board of county commissioners shall order a refund for taxes illegally collected or for any duplicate taxes paid during the immediately preceding 10 years regardless of when the taxes were first illegally collected or when the duplicate taxes were first paid.

(5) (a) In the order to refund taxes as provided in subsection (4)(c), the board of county commissioners shall determine the method of repayment. The board may:

(i) refund the entire amount due the taxpayer within 60 days after the date of the order; or

(ii) refund the amount due the taxpayer in annual installments, for a period not to exceed 10 years.

(b) If the refund is made in annual installments as provided in subsection (5)(a)(ii), the taxpayer is entitled to interest on the unpaid balance at the greatest interest rate in effect on January 1 of each year of the installment period received on public money invested by the county as provided in Title 7, chapter 6, part 2; Title 7, chapter 6, part 27; or 17-6-204.

(c) In satisfying the requirements of subsection (5)(a)(ii), the first annual installment must be paid within 60 days after the date of the order by the board of county commissioners. Subsequent annual installments must be paid on the first business day following January 1 of the year the installment is due.

(d) The treasurer shall bill and the taxing jurisdiction shall refund to the treasurer that portion of the annual installment of the taxpayer refund and costs for which the taxing jurisdiction is proratably responsible.

~~f(d)(6)~~ All refunds ordered to be paid by the board of county commissioners must be paid by the county treasurer out of the general fund of the county, and the county treasurer shall then make such transfers from other county

1 funds and from state, school district, and other public
2 corporation funds in his possession as may be necessary to
3 reimburse the county general fund for payments made
4 therefrom from the fund.

5 {2}{7} Upon the entering of judgment under 15-2-306,
6 the county commissioners of the affected county shall order
7 a refund of ~~such~~ the portion of the taxes as that the state
8 tax appeal board has judged should be refunded."

9 NEW SECTION. Section 2. Effective date. [This act] is
10 effective on passage and approval.

-End-

CHAIRMAN--MIKE HALLIGAN
NORMAL SCHEDULE==> SITE: RM 413/415

DAYS: M,T,W,T,F

TIME: 8:00 A.M.

SECRETARY-JILL ROHYANS

--BILL NO--	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
HB0452	4/04	4/09		CONCUR AS AMENDED		4/12
LARSON, DON			PROPERTY TAX EXEMPTION FOR NEW AND EXPANDING INDUSTRIES			
HB0481	2/19	3/11		CONCUR		3/11
WALLIN, NORM			AUTHORIZE SALE OF TAX-DEED LAND FOR MARKET VALUE TO PURCHASER AFTER AUCTION			
HB0513	2/19	3/20		CONCUR AS AMENDED		3/27
SIMPKINS, RICHARD			REVISE PROVISIONS RELATING TO REFUND OF TAXES ILLEGALLY COLLECTED			
HB0518	4/04	4/05		CONCUR AS AMENDED		4/05
MESSMORE, CHARLOTTE			ADVERTISEMENT AND HEARING BEFORE BUDGETING MORE PROPERTY TAX REVENUES			
HB0543	3/13	3/27		CONCUR		3/27
DARKO, PAULA			CLARIFYING THE ELIGIBILITY FOR THE CREDIT FOR EMPLOYER PROVIDED DAY-CARE			
HB0550	4/04	4/08		ADVERSE RPT ADOPT		4/09
GRADY, ED			FUND STATE PARKS THROUGH A TAX ON RENTAL CAR FEES			
HB0558	3/15	4/09		CONCUR		4/12
REAM, BOB			REVISING PROCESS OF ESTIMATING REVENUE BY LEGISLATURE; USE OF ESTIMATES			
HB0580	2/20	3/06		CONCUR AS AMENDED		3/07
SCHYE, TED			REQUIRE DOR TO REPORT TAXABLE VALUE TO OPI BY DECEMBER 1 OF EACH YEAR			
HB0591	2/20	3/20		CONCUR		3/27
SOUTHWORTH, JIM			PREVAILING WAGE LAW APPLIES TO TAX EXEMPT PROJECTS OVER \$25,000			
HB0617	4/04	4/05		TABLED		
REAM, BOB			REQUIRING DEPT OF REVENUE TO REPORT CERTAIN INFO; TAX EXPENDITURE BUDGET			
HB0677	4/04	4/05		CONCUR		4/05
BENEDICT, STEVE			ALLOW 1 MILL FOR COUNTY LITERACY PROGRAM			

Proponents' Testimony:

Gordon Morris, Montana Association of Counties, said District Court costs are increasing all across the state. The bill provides an option for those Courts who are facing an increasing deficit situation.

Opponents' Testimony:

There were no opponents.

Questions from Committee Members:

Senator Van Valkenburg asked if the county can presently put general fund revenue into the District Court funding.

Mr. Morris said the county can do that, but county general funds are quite limited and most counties are really "strapped" for operating money and at the maximum millage under law.

Senator Halligan asked if the emergency levy under 1105 isn't available to fund the Courts.

Mr. Morris said it is, but the provision only allows the county to increase the number of mills within the statutory authorization of current law.

Closing by Sponsor:

Senator Doherty closed.

HEARING ON HOUSE BILL 513Presentation and Opening Statement by Sponsor:

Rep. Simpkins, District 39, sponsor, said this is a "people's bill". The bill addresses the problem of refunding improperly collected taxes on homes as a result of the reappraisal and appeal situation in Great Falls. A Cascade County family appealed their tax payment after they had paid it as they discovered they were assessed on the basis of a much larger, multi-family dwelling than they owned. The Commissioners declined to refund their overpayment because the law is permissive in terms of refunds. The Commissioners "may" make refunds. The bill requires a mandatory refund to the taxpayer when there has been a mistake in the identification of the property. A retroactive provision has been added to the bill beginning in 1990 forward. Rep. Simpkins presented proposed amendments (Exhibits #1 and #2).

Proponents' Testimony:

Gordon Morris, Montana Association of Counties, said the bill is a housekeeping measure and he expressed support for the refund provision.

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

Senator Thayer questioned the retroactivity provision.

Rep. Simpkins said the retroactivity begins in 1990 and moves forward from this year. If someone were to file for refund in 1994 he could only collect back to 1991. This is to avoid the counties being hit for ten years worth of refunds all at once.

Senator Thayer said expressed concern for those people who have paid twice and are due a refund should be able to get it, even if the county has to come up with ten years of refunds all at once.

Senator Towe said there is a case pending before the Supreme Court regarding an illegally collected tax. There will be a ruling on the "may" provision shortly. He asked Mr. Shanahan for his comments.

Ward Shanahan said the Department can retroactively correct errors in returns for ten years under current statute. He noted he has a case where the taxpayer paid a net proceeds tax where there was no direction for valuation. The payment was made on the taxpayers "best guess", the tax was overpaid, and the Commissioners declined to refund the overpayment.

Closing by Sponsor:

Rep. Simpkins by saying the bill deals with a small problem, but stated he has no objection to broadening the provisions if the committee so desires. He stressed he would like to retain the limited retroactivity in order to keep counties from having any further financial problems.

ROLL CALL

SENATE TAXATION COMMITTEE

DATE _____

LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SEN. HALLIGAN	X		
SEN. ECK	X		
SEN. BROWN	X		
SEN. DOHERTY	X		
SEN. GAGE	X		
SEN. HARP	X		
SEN. KOENIG	X		4:20 in
SEN. THAYER	X		
SEN. TOWE	X		
SEN. VAN VALKENBURG	X		
SEN. YELLOWTAIL	X		

Each day attach to minutes.

AMENDMENTS TO HB 513

Third Reading Copy (blue)

Department of Revenue

The bill as introduced changes the county commissioners' discretionary authority to issue refunds to a mandatory requirement. The purpose of previous amendments proposed by the Department and adopted by the House, was to limit the situations in which a mandatory refund is required. The county commissioners will be required to issue a refund if the Department of Revenue determines that it made a mistake as to the description or location of the land or improvements.

If the property owner disagrees with the valuation of the property they are entitled to appeal to the tax appeal boards and the courts. If they prevail, they are entitled to a refund. The procedure described in this bill is only for those situations where the Department made a clear error in the property description or in the location of the property and the owner did not file an appeal.

The previous amendments also require a refund when the Department determines that net or gross proceeds taxes were overpaid within the last five years. Presently the Department may audit a proceeds tax return -- which is similar to an income tax return -- and assess additional taxes for the past five years. However, the taxpayer is not entitled to a refund if the audit shows that they overpaid.

Finally, the amendments changed the date on which subsequent installment payment on a refund must be made from January 1 to October 1. This allows the county an opportunity to budget for the payments.

There was an error in the amendments prepared by the Department. In order to be consistent with the above intent, it is necessary to change the "shall" in section (4) (c) on page 3 to "may". This is consistent with the same change made in section (1)(b), (2)(b) and (4)(a).

1. Page 3, line 19
Following: "commissioners"
Strike: "shall"
Insert: "may"

HB 513

Change

pg 3, line 19 after COMMISSIONERS
delete "shall"
add "may"

pg 3, line 20
after collected, delete "or for any duplicate
taxes paid."

pg 5, line 1
after IMPROVEMENTS, add: "or ~~any~~ for any
duplicate taxes paid"

EXECUTIVE ACTION ON HOUSE BILL 513Amendments, Discussion, and Votes:

Jeff Martin presented proposed amendments (Exhibit #1) from the sponsor which are designed to answer Senator Thayer's question regarding duplicate taxes and the refund from the county treasurer being retroactive back ten years. The amendments would direct the refund of duplicate taxes paid in error back to 1981 and overpayment of net and gross proceeds to be refunded back to the taxable year beginning in 1986.

Senator Towe felt the permissive language "may" should be stricken regarding taxes illegally collected and "shall" inserted in lieu.

Senator Towe moved to adopt all the amendments with the exception of amendment #2.

The motion CARRIED.

Recommendation and Vote:

Senator Thayer moved HB 513 Be Concurred In As Amended.

The motion CARRIED unanimously.

EXECUTIVE ACTION ON HOUSE BILL 591Recommendation and Vote:

Senator Harp moved HB 591 Be Concurred In.

The motion CARRIED unanimously.

HEARING ON HOUSE BILL 757Presentation and Opening Statement by Sponsor:

Representative Kadas, District 55, sponsor, said if tax exempt property is purchased under current law no taxes are paid until the beginning of the next tax year. The bill directs that taxes must be paid from the time ownership is taken. It prorates taxes for the year in which the purchase was made. He presented proposed amendments drafted by the Department of Revenue which would direct the taxes be collected in the same time period as they are currently collected - in November and May (Exhibit #2).

ROLL CALL

SENATE TAXATION COMMITTEE

DATE 3/27/91

52nd LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SEN. HALLIGAN	X		
SEN. ECK	X		
SEN. BROWN	X		
SEN. DOHERTY	X		
SEN. GAGE	X		
SEN. HARP	X		
SEN. KOEHNKE	X		
SEN. THAYER	X		
SEN. TOWE	X		
SEN. VAN VALKENBURG	X		
SEN. YELLOWTAIL	X		

Each day attach to minutes.

Amendments to House Bill No. 513
Third Reading Copy

Requested by Representative Simpkins
For the Committee on Taxation

Prepared by Jeff Martin
March 22, 1991

1. Page 3, line 18.

Strike: "subsection (5)"

Insert: "subsections (6) and (7)"

2. Page 3, line 19.

Strike: "shall"

Insert: "may"

3. Page 3, line 20.

Strike: "or for any duplicate taxes paid"

4. Page 3, lines 22 and 23.

Strike: "or" on line 22 through "paid" on line 23

5. Page 5, line 1.

Following: "IMPROVEMENTS"

Insert: "or for any duplicate taxes paid"

6. Page 5, line 25.

Following: "APPLICABILITY."

Insert: "(1)"

7. Page 5, line 1.

Following: "AND"

Insert: ", except as provided in subsections (2) and (3),"

8. Page 6.

Following: line 2

Insert: "(2) [Section 1(6)] applies retroactively, within the meaning of 1-2-109, to taxes erroneously paid and any duplicate taxes paid beginning with the 1981 tax year.

(3) [Section 1(7)] applies retroactively, within the mean of 1-2-109, to an overpayment of net or gross proceeds taxes beginning with the 1986 tax year."

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 27, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 513 (third reading copy - blue), respectfully report that House Bill No. 513 be amended and as so amended be concurred in:

1. Title, line 14.

Strike: "A"

Strike: "DATE"

Insert: "DATES"

2. Page 1, line 20.

Strike: "MAY BE"

Insert: "is"

3. Page 4, lines 18.

Strike: "subsection (5)"

Insert: "subsections (6) and (7)"

4. Page 5, line 1.

Following: "IMPROVEMENTS"

Insert: "or for any duplicate taxes paid"

5. Page 5, line 25.

Following: "APPLICABILITY."

Insert: "(1)"

6. Page 6, line 1.

Following: "AND"

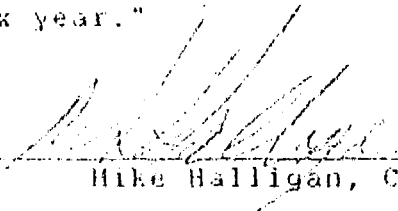
Insert: ", except as provided in subsections (2) and (3)."

7. Page 6.

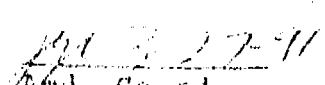
Following: line 2

Insert: "(2) [Section 1(6)] applies retroactively, within the meaning of 1-2-109, to taxes erroneously paid and any duplicate taxes paid beginning with the 1981 tax year.

(3) [Section 1(7)] applies retroactively, within the mean of 1-2-109, to an overpayment of net or gross proceeds taxes beginning with the 1986 tax year."

Signed: 

Mike Halligan, Chairman


M. J. 27-91
Mnd. Coord.

3-27-12:30
Sec. of Senate

661207SC.S11

CHAIRMAN--DAN HARRINGTON
NORMAL SCHEDULE==> SITE: ROOM 437

DAYS: M,T,W,T,F

TIME: 8:00 A.M.

SECRETARY--MONA SPAULDING

--BILL NO--	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
HB0457	1/30	2/13		TABLED ON 02/20		
ELLIOTT, JIM			IMPOSING A TAX ON THE EXCESS PROFITS OF PRODUCERS OF OIL AND NATURAL GAS			
HB0458	1/30	2/13		TABLED ON 03/27		
ELLIOTT, JIM			IMPOSE A TAX ON EXCESS PROFITS OF COAL PRODUCERS			
HB0460	1/30	2/07		TABLED ON 03/27		
WHALEN, TIM			IMPOSING THE CORPORATE LICENSE TAX ON INSURANCE COMPANIES			
HB0478	1/31					
BRADLEY, DOROTHY			CIGARETTE TAX RAISE FOR RESEARCH AND DEVELOPMENT			
HB0481	1/30	2/12		DO PASS		2/12
WALLIN, NORM			AUTHORIZE SALE OF TAX-DEED LAND FOR MARKET VALUE TO PURCHASER AFTER AUCTION			
HB0510	1/31	2/12		TABLED ON 02/12		
NISBET, JERRY			ALLOW NONRESIDENT PROPERTY OWNERS TO VOTE IN LOCAL BOND ISSUE ELECTIONS			
HB0513	1/31	2/12		PASS AS AMENDED		2/12
SIMPKINS, RICHARD			REQUIRE THE BOARD OF COUNTY COMMISSIONERS TO ORDER A REFUND OF CERTAIN TAXES			
HB0518	1/31	2/15		PASS AS AMENDED		3/22
MESSMORE, CHARLOTTE			ADVERTISEMENT AND HEARING BEFORE BUDGETING MORE PROPERTY TAX REVENUES			
HB0526	2/04	2/12		TABLED ON 03/27		
SCHYE, TED			MOTOR VEHICLE REGISTRATION FEE FOR STATE PARKS			
HB0532	1/31	2/13	3/18	TABLED ON 03/19		
SOUTHWORTH, JIM			ESTABLISHING A TAX ON THE SHORT-TERM RENTAL OR LEASE OF CARS & LIGHT TRUCKS			
HB0543	2/01	2/15		PASS AS AMENDED		3/05
DARKO, PAULA			CLARIFYING THE ELIGIBILITY FOR THE CREDIT FOR EMPLOYER PROVIDED DAY-CARE			

HEARING ON HB 513

Presentation and Opening Statement by Sponsor:

REP. SIMPKINS, House District 39, Great Falls, stated that HB 513 is a taxpayer protection bill. He related the situation that brought about this legislation. The current laws have a simple clause that says Commissioners "may" order tax refunds to the taxpayer when its noted that an error has been made on a property assessments. HB 703 hit Great Falls very hard. He had constituents who have had their homes for 20 years, and this is the first time they ever received an appraisal notice from the assessor. They are used to seeing their tax bill which gives them their taxable evaluation. Many people do not know that they are suppose to divide by .0386 in order to figure out the value of their house. Many people asked why the value of their homes was so high. Many of them found out that, for example, the assessor had their records at five bedrooms, a full basement, and three baths; when in reality they had three bedrooms, no family room, and one bath. Consequently, the County Commissioners put out a resolution that stated they accepted this option, and they did not have to make refunds in those cases. HB 510 will correct this situation.

The bill states that if a mistake has been made in valuating property, the taxpayer is entitled to a refund. The DOR wanted to define this by referring to real estate and improvements on real estate in the appraisal of the property. He introduced amendments by DOR. EXHIBIT 2

Proponents' Testimony:

Gordon Morris, Montana Association of Counties, said he has had the opportunity to review HB 513 and the amendments. It is a cleanup of confusing laws and urged the committee's approval.

Opponents' Testimony: None

Questions From Committee Members:

REP. ELLIOTT referred to amendment #9. It states the county commissioners are required to refund any gross proceeds tax, penalty, or interest. He thinks it exceeds the status of the bill. REP. SIMPKINS stated taxes that are improperly collected, not authorized, or beyond that which is correct is illegally collected according to our laws. The DOR tried to put a cleanup in the amendments. Currently on an audit, if they find an error and the people owe the state more money, they can collect it; but there is no provision to pay the money back if the department finds the taxpayer has paid to much tax. REP. ELLIOTT said that the statement was made that the taxpayers can not get a refund on illegally collected tax retroactively. REP. SIMPKINS said yes,

from the date of the bill and the prior taxable year. REP. ELLIOTT said in the same subsection people with net gross proceeds are entitled to go back five years. REP. SIMPKINS told REP. ELLIOTT to refer to amendment #11 which states "applies retroactively within the meaning of 1-2-109, to taxes paid for the 1990 tax year". This amendment applies to the entire bill. REP. ELLIOTT said he understood that, but Sub 7 states the refund shall not apply to any taxes actually paid more than four years prior to the date the claim is received. REP. SIMPKINS referred the question to DOR. Dave Woodgerd, DOR, stated the bill, as proposed, affected all property taxpayers which includes net and gross proceeds. Its intent was for the homeowners. All of the amendments apply only to tax year 1990 and forward. No property owner, including the net and gross proceeds people, could receive a refund prior to 1990. The reason the five years is in Subsection 7 is because all the property taxes other than net and gross proceeds can be refunded in 10 years. What we are doing is limiting net and gross proceeds to five years because the statute of limitations states that DOR can only assess additional taxes after an audit for five years. So they are reciprocating.

REP. STANG asked Dave Woodgerd how many cases of erroneously collected taxes did we have in the state. Mr. Woodgerd said he would have to get the information. REP. STANG asked if it isn't true that homeowners get a statement only when there houses have been reappraised. Mr. Woodgerd said that was correct. If there is no change in the valuation from year to year, they do not send out statements on the assessment.

Closing by Sponsor:

REP. SIMPKINS stated he believes that it is the responsibility of the state to correctly identify and appraise the properties, not the taxpayer. If the taxpayer sees that there has been an error made, the state owes the money back to the taxpayer. HB 513 does not replace the appeals process. He endorsed the amendments and urged the committee's support.

HEARING ON HB 386 and 526

Presentation and Opening Statement by Sponsor:

REP. SCHYE, House District 18, Glasgow, gave a visual presentation. He stated the bills came about as a result of trying to find funds for our state parks. HB 386 is a one cent gas tax to be used for upgrading roads leading to and within the state parks. Safe and reliable roads are an essential need of the park users. Tourism is Montana's major industry.

HB 526 is a motor vehicle tax. It would impose a 50 cent tax on all motor vehicle registrations. Since most of the parks are accessed by automobiles, this is a very legitimate tax to fund the roads. It would bring in approximately \$500,000 annually.

Discussion:

REP. RANEY asked what this is going to do to the fiscal impact. REP. COHEN stated REP. SWYSGOOD new of one rancher who was moving livestock back and forth across the borders would be affected by the bill. This gentleman was not running any domestic elk, bison, or llamas. This is negligible.

REP. REAM stated there were other species of wildlife that are kept in captivity like red deer and suggested "domestic elk" be changed to "domestic wildlife". REP. RANEY said he sensed that they were talking about herd animals that are produced for meat and horns not just pets. REP. REAM said that keeping wildlife has become a multimillion dollar industry. REP. ELLIOTT said that Lee Heiman suggested a word that would be a catch-all and that is "domestic ungulates".

Vote: Motion to amend HB 334 carried unanimously.

Motion/Vote: REP. ELLIOTT moved to further amend HB 334 by striking "elk" and inserting "ungulates". Motion carried 19 to 2 with REPS. STANG, HOFFMAN, and REP. M. HANSON voting no.

Motion/Vote: REP. COHEN MADE A SUBSTITUTE MOTION THAT HB 334 DO PASS AS AMENDED.

Discussion:

REP. ELLIOTT said he questioned the bill because of the small amount of people it might affect. A farmer takes his cattle into Idaho and pays a per capita tax on them. He assumes, that when he moves his cattle back into Montana, he takes a deduction against the per capita tax. He is probably getting the money back. REP. ELLISON said we are under estimating the number of cattle that move back and forth across state borders. When you consider the amount of border that Montana has, there is bound to be more than one person moving cattle across the borders. REP. NELSON commented that Mr. Hagenberg from the Stockgrower's Association stated that HB 39 in the 89 session dropped the average inventory and provided March 1 inventory with no mechanism for time out of the state. It increased his taxes 93% which is almost double. REP. ELLISON asked if there was a proration before we got rid of the cattle inventory. REP. M. HANSON said there was a proration until 1989 when we took it off.

Vote: Motion that HB 334 Do Pass As Amended carried 20 to 1 with REP. ELLIOTT voting no.

EXECUTIVE ACTION ON HB 513

Motion: REP. FAGG MOVED HB 513 DO PASS.

Motion: REP. FAGG moved to amend HB 513. EXHIBIT 13

Discussion:

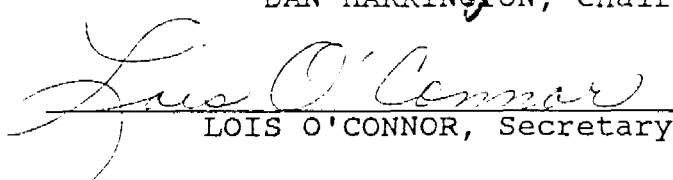
REP. O'KEEFE referred to REP. ELLIOTT's line of questioning on gross proceeds. He asked who are the net or gross proceeds tax paid in to. REP. HARRINGTON said to both the county and the state. REP. O'KEEFE said that we are saying the county commissioners are required to refund any net or gross proceeds tax that are overpaid. What if an overpayment is made to the state? REP. ELLIOTT said this bill would not go into affect until this year. They would not have been paid to the state. Denis Adams, DOR, stated currently, the net and gross proceeds, even though the reports are made to the state, the payments do go to the county. REP. O'KEEFE asked if the state bill these taxes. Mr. Adams said only on certain ones like the local government severance tax. The ones where the mill levy applies is paid to the county. REP. O'KEEFE said if the error is made by the state before the counties collect this tax, the state has the power to tell the county commissioners, "we messed up, you pay the refund". Mr. Adams said these taxes are self reporting by the companies. When DOR does an audit, this is when the problem is disclosed. If they have underpaid, there is an additional assessment coming from the county. If they have overpaid, then DOR would notify the county that there has been an overpayment. Then it would be refunded.

Vote: Motion that HB 513 Do Pass As Amended carried 16 to 4 with REP. THOMAS absent. EXHIBIT 14

ADJOURNMENT

Adjournment: 11:15 a.m.


DAN HARRINGTON, Chair


LOIS O'CONNOR, Secretary

DH/lo

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL

DATE 2/2/91

NAME	PRESENT	ABSENT	EXCUSED
REP. DAN HARRINGTON	✓		
REP. BEN COHEN, VICE-CHAIRMAN	✓		
REP. BOB REAM, VICE-CHAIRMAN	✓		X
REP. ED DOLEZAL	✓		
REP. JIM ELLIOTT	✓		
REP. ORVAL ELLISON	✓		
REP. RUSSELL FAGG	✓		
REP. MIKE FOSTER			✓
REP. BOB GILBERT	✓	X	
REP. MARIAN HANSON	✓		
REP. DAVID HOFFMAN	✓		
REP. JIM MADISON	✓		
REP. ED MCCAFFREE	✓		
REP. BEA MCCARTHY	✓	X	
REP. TOM NELSON	✓		
REP. MARK O'KEEFE	✓		
REP. BOB RANEY	✓		
REP. TED SCHYE	✓		
REP. BARRY "SPOOK" STANG	✓		
REP. FRED THOMAS			✓
REP. DAVE WANZENRIED	✓	X	

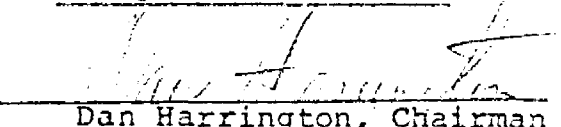
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HOUSE STANDING COMMITTEE REPORT

February 12, 1991

Page 1 of 2

Mr. Speaker: We, the committee on Taxation report that House Bill 513 (first reading copy -- white) do pass as amended.

Signed: 
Dan Harrington, Chairman

And, that such amendments read:

1. Title, lines 4 through 6.

Following: "ACT"

Strike: "REVISING" on line 4 through "PAID;" on line 6

2. Title, line 7.

Following: "REFUND"

Strike: "ON"

Insert: "OF CERTAIN"

3. Title, line 8.

Strike: "ILLEGALLY COLLECTED OR ON DUPLICATE TAXES PAID"

4. Title, line 13.

Following: "DATE"

Insert: "AND A RETROACTIVE APPLICABILITY DATE"

5. Page 1, line 18.

Following: "taxpayer"

Strike: "is"

Insert: "may be"

6. Page 2, line 4.

Following: "treasurer"

Strike: "shall"

Insert: "may"

7. Page 2, line 13.

Following: "may"

Strike: "shall"

Insert: "may"

8. Page 4, line 8.

Following: "on"

Strike: "January"

Insert: "October"

9. Page 4, line 16.
Following: "following"
Strike: "January"
Insert: "October"

10. Page 4, line 22.
Following: line 21

Insert: " (6) The board of county commissioners shall refund any tax, penalty, or interest collected as a result of an error in the description or location of real property or improvements as determined by the department of revenue. The refund is subject to the provisions of subsections (4) and (5).

(7) The board of county commissioners shall refund any net or gross proceeds tax, penalty, or interest when the department of revenue notifies the board that an overpayment occurred. The department shall determine the amount of overpayment. The refund is subject to the provisions of subsections (4) and (5) but no refund may be granted for any taxes paid more than 5 years prior to the date the claim was received."

Renumber: subsequent subsections

11. Page 5, line 9.
Following: "date"
Insert: "-- applicability"

12. Page 5, line 10.
Following: "approval"
Insert: "and applies retroactively, within the meaning of 1-2-109, to taxes paid for the 1990 tax year"

AMENDMENTS TO HB 513
Introduced copy (white)

Department of Revenue

The bill as introduced changes the county commissioners' discretionary authority to issue refunds to a mandatory requirement. The purpose of the amendments is to limit the situations in which a mandatory refund is required. The county commissioners will be required to issue a refund if the Department of Revenue determines that it made a mistake as to the description or location of the land or improvements.

If the property owner disagrees with the valuation of the property they are entitled to appeal to the tax appeal boards and the courts. If they prevail, they are entitled to a refund. The procedure described in this bill is only for those situations where the Department made a clear error in the property description or in the location of the property and the owner did not file an appeal.

The amendments also require a refund when the Department determines that net or gross proceeds taxes were overpaid within a certain period. The Department may audit the taxpayer's tax return -- which is limited to an audit of the return -- and assess additional taxes for the past five years. However, the taxpayer is not entitled to a refund if the audit shows that they overpaid.

Finally, the amendments change the date on which subsequent installment payment on a refund must be made from January 1 to October 1. This allows the county an opportunity to budget for the payments.

1. Title, lines 4 through 6
Following: "ENTITLED:"
Strike: "AN ACT REVISING THE PROVISIONS RELATING TO REFUNDS ON TAXES, INTEREST, PENALTIES, OR COSTS ILLEGALLY COLLECTED AND ON DUPLICATE TAXES PAID;"
2. Title, line 7
Following: "REFUND"
Strike: "ON"
Insert: "OF CERTAIN"
3. Title, line 8
Strike: "ILLEGALLY COLLECTED OR ON DUPLICATE TAXES PAID"
4. Page 1, line 18
Following: "taxpayer"
Strike: "is"
Insert: "may be"
Renumber:
5. Page 2, line 4
Following: "treasurer"

Strike: "shall"
Insert: "may"

6. Page 2, line 13
Following: "may"
Strike: "shall"
Insert: "may"
7. Page 4, line 8
Following: "on"
Strike: "January 1"
Insert: "October 1"
8. Page 4, line 16
Following: "following"
Strike: "January 1"
Insert: "October 1"
9. Page 4, line 22
Insert: "(6) The county commissioners are required to refund any tax, penalty or interest collected as a result of an error in the description or location of real property or improvements as determined by the Department of Revenue. The refund shall be subject to the provisions of subsections (4) and (5)."
(7) The county commissioners are required to refund any net or gross proceeds tax, penalty or interest when the Department of Revenue notifies the county commissioners that an overpayment occurred. The Department of Revenue must determine the amount of overpayment. The refund shall be subject to the provisions of subsections (4) and (5). However, the refund shall not apply to any taxes actually paid more than 5 years prior to the date of the refund.
Renumber: subsequent subsections
10. Page 5, line 9 (catch line)
Following: "date"
Insert: "and applicablity date"
11. page 5, line 10
Following: "approval"
Insert: "and applies retroactively within the meaning of 1-2-109, to taxes paid for the 1990 tax year"

Amendments to House Bill No. 513
First Reading Copy

For the Committee on Taxation

Prepared by Lee Heiman
February 12, 1991

1. Title, lines 4 through 6.
Strike: "REVISING" on line 4 through "PAID;" on line 6
2. Title, line 7.
Strike: "ON"
Insert: "OF CERTAIN"
3. Title, line 8.
Strike: "ILLEGALLY COLLECTED OR ON DUPLICATE TAXES PAID"
4. Title, line 13.
Following: "DATE"
Insert: "AND A RETROACTIVE APPLICABILITY DATE"
5. Page 1, line 18.
Strike: "is"
Insert: "may be"
6. Page 2, line 4.
Strike: "shall"
Insert: "may"
7. Page 2, line 13.
Strike: "shall"
Insert: "may"
8. Page 4, line 8.
Strike: "January"
Insert: "October"
9. Page 4, line 16.
Strike: "January"
Insert: "October"
10. Page 4.
Following: line 21
Insert: " (6) The board of county commissioners shall refund any tax, penalty, or interest collected as a result of an error in the description or location of real property or improvements as determined by the department of revenue. The refund is subject to the provisions of subsections (4) and (5).
 (7) The board of county commissioners shall refund any net or gross proceeds tax, penalty, or interest when the department of revenue notifies the board that an overpayment occurred. The department shall determine the amount of

Ex. 13

2-12-91

HB 513

overpayment. The refund is subject to the provisions of subsections (4) and (5), but no refund may be granted for any taxes paid more than 5 years prior to the date the claim was received."

Renumber: subsequent subsections

11. Page 5, line 9.

Following: "date"

Insert: "-- applicability"

12. Page 5, line 10.

Following: "approval"

Insert: "and applies retroactively, within the meaning of 1-2-109, to taxes paid for the 1990 tax year"

EXHIBIT 14
DATE 2-12-91
HB 513

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL VOTE

DATE _____ BILL NO. 513 NUMBER ① HB 513

MOTION: DP/A.

NAME	AYE	NO
REP. BEN COHEN, VICE-CHAIRMAN		✓
REP. ED DOLEZAL	✓	
REP. JIM ELLIOTT		✓
REP. ORVAL ELLISON	✓	
REP. RUSSELL FAGG	✓	
REP. MIKE FOSTER	✓	
REP. BOB GILBERT	✓	
REP. MARIAN HANSON	✓	
REP. DAVID HOFFMAN	✓	
REP. JIM MADISON		✓
REP. ED MCCAFFREE	✓	
REP. BEA MCCARTHY	✓	
REP. TOM NELSON	✓	
REP. MARK O'KEEFE	✓	
REP. BOB RANEY		✓
REP. BOB REAM, VICE-CHAIRMAN	✓	
REP. TED SCHYE	✓	
REP. BARRY "SPOOK" STANG	✓	
REP. FRED THOMAS	✓	
REP. DAVE WANZENRIED	✓	
REP. DAN HARRINGTON, CHAIRMAN	✓	
TOTAL		

*order
Thomas
me.*

16: 4

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Taxation COMMITTEE BILL NO. H.B. 513
DATE 2/12/91 SPONSOR(S) Rep. Simpkins
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
<i>Gordon Morris</i>	<i>MACo</i>		

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.